

**Effective 7/1/2017**

**Chapter 22  
Dairy Promotion**

**Part 1  
Organization**

**4-22-101 Title.**

This chapter is known as "Dairy Promotion."

Enacted by Chapter 345, 2017 General Session

**4-22-102 Definitions.**

As used in this chapter:

- (1) "Commission" means the Utah Dairy Commission.
- (2) "Dealer" means any person who buys and processes raw milk or milk fat, or who acts as agent in the sale or purchase of raw milk or milk fat, or who acts as a broker or factor with respect to raw milk or milk fat or any product derived from either.
- (3) "Producer" means a person who produces milk or milk fat from cows and who sells it for human or animal consumption, or for medicinal or industrial uses.
- (4) "Producer-handler" means any producer who processes raw milk or milk fat.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-22-103 Utah Dairy Commission created.**

- (1) There is created an independent state agency known as the Utah Dairy Commission.
- (2) Subject to Subsection (5), the Utah Dairy Commission consists of 11 members as follows:
  - (a) nine voting members as follows:
    - (i) two from District 1, which consists of Cache and Rich Counties;
    - (ii) four members from District 2, which consists of Box Elder, Weber, Morgan, Salt Lake, Davis, Utah, Tooele, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties; and
    - (iii) three members from District 3, which consists of Millard, Beaver, Iron, Washington, Sanpete, Carbon, Emery, Grand, Juab, San Juan, Piute, Wayne, Kane, Garfield, and Sevier Counties; and
  - (b) two nonvoting members as follows:
    - (i) the commissioner or the commissioner's designee; and
    - (ii) the dean of the College of Agriculture at Utah State University, or the dean's designee.
- (3) The voting members listed in Subsection (2)(a) shall be elected to four-year terms of office as provided in Section 4-22-105.
- (4) A voting member shall enter office on July 1 of the year in which the member is elected. The commission shall stagger the voting members' terms so that no more than three voting members' terms expire in a given year.
- (5)
  - (a) To maintain equitable representation of active milk producers on the commission, the commission may, by a two-thirds vote:
    - (i) alter the boundaries comprising the districts established in Subsection (2)(a); or

- (ii) increase or decrease the number of voting members in each district without altering the total number of commission members.
  - (b) If the commission increases the number of voting members in a district under this Subsection (5), a new member will be elected as provided in Section 4-22-105.
  - (c) If the commission decreases the number of voting members in a district under this Subsection (5), each member representing the district will continue in office through the end of the member's term and the member whose term expires first will not be replaced or reelected upon expiration of the member's term.
  - (d) If the commission acts under this Subsection (5), it shall report the changes to the Natural Resources, Agriculture, and Environment Interim Committee.
- (6) A member shall be:
- (a) a citizen of the United States;
  - (b) 21 years old or older;
  - (c) an active milk producer with five consecutive years of experience in milk production within this state immediately preceding election; and
  - (d) a resident of Utah and the district represented.

Amended by Chapter 295, 2021 General Session

**4-22-104 Commission -- Organization -- Quorum to transact business -- Vacancies -- Ineligibility to serve -- Compensation.**

- (1) The members of the commission shall elect a chair, vice chair, and secretary from the commission.
- (2) Attendance of a simple majority of the commission members at a called meeting shall constitute a quorum for the transaction of official business.
- (3) The commission shall meet:
  - (a) at the time and place designated by the chair; and
  - (b) no less often than once every three months.
- (4) Vacancies that occur on the commission for any reason shall be filled for the unexpired term of the vacated member by appointment of a majority of the remaining members.
- (5) If a member moves from the district that the member represents or ceases to act as a producer during the member's term of office, the member shall resign from the commission within 30 days after moving from the district or ceasing production.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-22-105 Commission to conduct elections -- Nomination of candidates -- Expenses of election paid by commission.**

- (1)
  - (a) The commissioner shall administer all commission elections.
  - (b) The commissioner shall mail a ballot to each producer within the district in which an election is to be held by May 15 of each election year.

- (c) The candidate who receives the highest number of votes cast in the candidate's district shall be elected.
- (d) The commissioner shall determine all questions of eligibility.
- (e) A ballot shall be postmarked by May 31 of an election year.
- (f)
  - (i) All ballots received by the commissioner shall be counted and tallied by June 15.
  - (ii) A member of the commission whose name appears on a ballot may not participate in counting or tallying the ballots.
- (2) Candidates for election to the commission shall be nominated, not later than April 15, by a petition signed by two or more producers who are residents of the district in which the election is to be held.
- (3) The names of all nominees shall be submitted to the commissioner on or before May 1 of each election year.
- (4) All election expenses incurred by the commissioner shall be paid by the commission.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-22-106 Commission powers, duties, and functions.**

The commission has and shall exercise the following functions, powers, and duties:

- (1) to use one of the following means to administer the policies adopted, and perform the duties assigned, by the commission:
  - (a) employ and fix the compensation of one or more individuals who are not members of the commission; or
  - (b) retain and fix the compensation of an entity, including an entity engaged in activities similar to the commission;
- (2) to conduct a campaign of research, nutritional education, and publicity, showing the value of milk, cream, and dairy products;
- (3) to encourage local, national, and international use of Utah dairy products and by-products, through marketing or otherwise;
- (4) to investigate and participate in studies of problems peculiar to producers in Utah and to take the actions consistent with this chapter in an effort to promote, protect, and stabilize the state dairy industry;
- (5) to sue and be sued, prosecute actions in the name of the state for the collection of the assessment imposed by Section 4-22-201, enter into contracts, and incur indebtedness in furtherance of the commission's business activities;
- (6) to cooperate with any local, state, or national organization engaged in activities similar to those of the commission;
- (7) to accept grants, donations, or gifts for use consistent with this chapter; and
- (8) to do other things necessary for the efficient and effective management and operation of the commission's business.

Amended by Chapter 6, 2020 General Session

**4-22-107 Exemption from certain operational requirements.**

- (1) The commission is exempt from:
  - (a) Title 51, Chapter 5, Funds Consolidation Act;
  - (b) Title 51, Chapter 7, State Money Management Act;
  - (c) Title 63A, Utah Government Operations Code;

- (d) Title 63G, Chapter 6a, Utah Procurement Code, but the commission shall adopt procedures to ensure that the commission makes purchases:
    - (i) in a manner that provides for fair competition between providers; and
    - (ii) at competitive prices;
  - (e) Title 63J, Chapter 1, Budgetary Procedures Act; and
  - (f) Title 63A, Chapter 17, Utah State Personnel Management Act.
- (2) The commission is subject to:
- (a) Title 52, Chapter 4, Open and Public Meetings Act;
  - (b) Section 67-3-12; and
  - (c) Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 84, 2021 General Session

Amended by Chapter 345, 2021 General Session

**4-22-108 Commission may require surety bond -- Payment of premium.**

The commission may require the administrator, or any commission employees, to post a surety bond conditioned for the faithful performance of the commission's official duties. The amount, form, and kind of such a bond shall be fixed by the commission and each bond premium shall be paid by the commission.

Renumbered and Amended by Chapter 345, 2017 General Session

**Part 2**  
**Assessment**

**4-22-201 Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or producer-handler -- Penalty for delinquent payment or collection -- Statement to be given to producer.**

- (1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state.
- (2) The assessment shall be:
  - (a) based upon daily or monthly settlements; and
  - (b) due at a time set by the commission, which may not be later than the last day of the month next succeeding the month of sale.
- (3)
  - (a) The assessment shall be:
    - (i) assessed against the producer at the time the milk or milk fat is delivered for sale;
    - (ii) deducted from the sales price; and
    - (iii) collected by the dealer or producer-handler.
  - (b) The proceeds of the assessment shall be paid directly to the commission who shall issue a receipt to the dealer or producer-handler.
  - (c) If a dealer or producer-handler fails to remit the proceeds of the assessment or deduct the assessment on time:
    - (i) a penalty equal to 10% of the amount due is to be added to the assessment; and
    - (ii) the commission may bring an action against the dealer or producer-handler for:
      - (A) injunctive relief compelling payment of the assessment and penalty;

- (B) damages, including interest at the statutory prejudgment rate from the date the payment was due;
  - (C) costs of collection, including reasonable attorney fees, whether incurred in litigation or otherwise; and
  - (D) other relief to which the commission may be entitled at law or in equity.
- (4)
- (a) At the time of payment of the assessment, the dealer or producer-handler shall deliver a statement to the producer calculating the assessment.
  - (b) The commission may require other relevant information to be included in the statement.
- (5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to payment of the assessment imposed under this section may, by January 31, submit a written request to the commission for a refund of the amount of the assessment the producer paid during the previous year.

Amended by Chapter 6, 2020 General Session

**4-22-202 Revenue from assessment used to promote dairy industry -- Deposit of money -- Annual audit of books, records, and accounts -- Annual financial report to producers.**

- (1) The revenue derived from the assessment imposed by Section 4-22-201 shall be used exclusively for the:
- (a) administration of this chapter; and
  - (b) promotion of the state's dairy industry.
- (2) The commission may deposit the proceeds of the assessment in one or more accounts in one or more banks approved by the state as depositories.
- (3)
- (a) The commission shall keep a voucher, receipt, or other written record for each withdrawal from the commission accounts.
  - (b) Money may not be withdrawn from the commission accounts except:
    - (i) upon order of the commission; or
    - (ii) pursuant to a procedure adopted by the commission if the withdrawal is subsequently ratified by the commission.
- (4) The books, records, and accounts of the commission's activities are public records.
- (5)
- (a) The accounts of the commission shall be audited once annually by a licensed accountant selected by the commission and approved by the state auditor.
  - (b) The results of the audit shall be submitted to the:
    - (i) commissioner;
    - (ii) commission; and
    - (iii) Division of Finance.
  - (c) The commission shall send annually a financial report to each producer.

Amended by Chapter 6, 2020 General Session

**4-22-203 Additional assessment for government liaison and industry relations programs -- Exemption from the assessment.**

- (1) In addition to the assessment provided in Section 4-22-201, an assessment of three-fourths of one cent is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state for the purposes specified in Subsection (3).
- (2) The three-fourths of one cent assessment shall be paid in the same manner as the assessment required by Section 4-22-201.
- (3) The commission shall use the revenue derived from the three-fourths of one cent assessment imposed by this section to contract out for services and expenses of government liaison and industry relations programs created to stabilize and protect the state's dairy industry and the health and welfare of the public.
- (4) A producer who objects to payment of the assessment imposed by this section may, by January 31, submit a written request to the commission to be exempted from payment of the assessment for that year. By January 1 each year, the commission shall send to each person subject to the assessment a postage-paid, self-addressed postcard which may be returned to request an exemption.

Renumbered and Amended by Chapter 345, 2017 General Session

### **Part 3**

### **Liability and Enforcement**

#### **4-22-301 State disclaimer of liability.**

The state is not liable for the acts or omissions of the commission, commission officers, agents, or employees.

Renumbered and Amended by Chapter 345, 2017 General Session

#### **4-22-302 Commission not eligible for coverage under Risk Management Fund.**

The commission is not eligible to receive coverage under the Risk Management Fund created under Section 63A-4-201.

Renumbered and Amended by Chapter 345, 2017 General Session

#### **4-22-303 Enforcement -- Inspection of books and records of dealer or producer-handler.**

The commission at reasonable times may enter upon the premises and inspect the records of any dealer or producer-handler for the purpose of enforcing this chapter.

Renumbered and Amended by Chapter 345, 2017 General Session